SUPPORTING STATEMENT
ALASKA OBSERVER PROGRAM
OMB CONTROL NO. 0648-0731

This action is a resubmission, with the final rule, of a request for a temporary new information collection due to an associated rule **[RIN 0648-BF25]**. There were no comments on this information collection, and there are no changes to this request.

National Marine Fisheries Service, Alaska Region (NMFS) manages the United States (U.S.) groundfish fisheries in the Exclusive Economic Zone (EEZ) under the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI FMP) and the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA FMP). The North Pacific Fishery Management Council (Council) prepared the FMPs pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.* as amended in 2006 (Magnuson Stevens Act). Regulations implementing the FMPs appear at 50 CFR part 679.

Management of the Pacific halibut fisheries in and off Alaska is governed by an international agreement, the ‘‘Convention Between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea” (Convention) which was signed in Ottawa, Canada, on March 2, 1953, and was amended by the ‘‘Protocol Amending the Convention,’’ signed in Washington, D.C., on March 29, 1979. The Convention is implemented in the U.S. by the Northern Pacific Halibut Act of 1982.

Observers are trained to work closely with the vessel crew to collect samples with minimal interference to the vessel's operations. When observers first board a vessel, they work with the vessel personnel to explain their needs, assess the fishing operations, and decide where they can best do their work in a safe manner. They need periodic access to the fishing logbooks and GPS locations, but the majority of their work is carried out on-deck, sampling the catch as it comes aboard. Observers take samples of the catch and need some space to take weights and measurements of those samples. They will collect their required data and minimize disruptions to fishing operations. Observers record information based on their direct observations following a sampling protocol outlined by NMFS. They apply random sampling methods to each data collection component. Observers use mechanical scales provided by NMFS to obtain weights of various components of their data. The Observer Sampling Manual describes the duties and priorities of observers and is available on the FMA Observer Program website.

The pollock fishery in waters off Alaska is the largest U.S. fishery by volume, and the economic character of that fishery centers on a varied range of product forms produced from pollock. In the U.S., Alaska pollock catches are processed mainly for roe, surimi, and several varieties of fillet products. Fillet production increased particularly rapidly in the years after the American Fisheries Act (AFA). Many factors, including more efficient rates of harvests, increased recovery rates, and the investment in new equipment that allowed a shift by processors from surimi to fillet production, were all made possible, at least in part, by the AFA**.**

The operator of a catcher/processor, mothership, or catcher vessel 125 ft LOA or longer (except for a catcher vessel fishing for groundfish with pot gear), or a catcher vessel participating in the pollock fishery are required to carry an observer on all trips but only catcher vessels greater than or equal to 125 ft length overall (LOA) are required to provide a computer, data entry software, and data transmission capabilities to the observer. The operator of a catcher/processor, mothership, or catcher vessel 125 ft LOA or longer (except for a catcher vessel fishing for groundfish with pot gear), or a catcher vessel participating in the pollock fishery are required to carry an observer on all trips but only catcher vessels greater than or equal to 125 ft length overall (LOA) are required to provide a computer, data entry software, and data transmission capabilities to the observer.

Alternatively, an observer on board a catcher vessel less than 125 ft LOA sends data to NMFS on paper forms via fax at the completion of each trip. This action will add the requirement for the operator of a catcher vessel participating in the Rockfish Program, or a catcher vessel less than 125 ft LOA directed fishing for pollock.

Observer data sent to NMFS via fax can take a week or more to be available for management purposes. Access to a computer for electronic data entry significantly increases the speed that observer data can be made available for inseason management and catch accounting. Further, the data validation measures built into the software improves initial data quality and decreases the need for corrections during the observer debriefing process.

This collection will be integrated into OMB 0648-0318 after the renewal of 0318 is approved by OMB.

A. JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary.

NMFS would extend the requirement to provide a computer with ATLAS software installed on it to vessels less than 125 feet LOA while participating in the Bering Sea pollock fishery. An observer must be allowed to use the vessel's communications equipment and personnel, on request, for the confidential entry, transmission, and receipt of work-related messages, at no cost to the observer or the United States.

2. **Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines**.

a. Communications and observer data entry [NEW]

The operator of a catcher/processor, mothership, or catcher vessel 125 ft LOA or longer (except for a catcher vessel fishing for groundfish with pot gear), the operator of a catcher vessel participating in the Rockfish Program, or a catcher vessel less than 125 ft LOA

directed fishing for pollock in the Bering Sea must provide the following equipment, software and data transmission capabilities:

- Observer access to computer. Make a computer available for use by the observer.

- NMFS-supplied software. Ensure that the most recent release of NMFS data entry software provided by the Regional Administrator, or other approved software, is installed and, if required, the data transmissions to NMFS can be executed effectively aboard the vessel by the equipment.

- Data transmission. The computer and software must be connected to a communication device that provides a point-to-point connection to the NMFS host computer. The required equipment that is used by an observer to enter or transmit data is fully functional and operational. "Functional" means that all the tasks and components of the NMFS supplied, or other approved, software and the data transmissions to NMFS can be executed effectively by the communications equipment.

A manager of a shoreside processor or a stationary floating processor that is required to maintain observer coverage must ensure that the communication equipment that is used by observers to enter and transmit data, is fully functional and operational. ''Functional'' means that all the tasks and components of the NMFS supplied, or other approved, software and the data transmissions to NMFS can be executed effectively by the communications equipment.

The table below summarizes the number of vessels in the Bering Sea pollock fishery that currently have ATLAS software installed on a computer on board the vessel and an estimate of the additional number of vessels that will be subject to the proposed expansion of the computer and ATLAS requirement.

Information about ATLAS requirements for trawl catcher vessels in the Bering Sea pollock fishery.

Vessel category	# of Vessels in Bering Sea pollock fishery	# with ATLAS on vessel computer now	Currently required to have computer with ATLAS
≥125 ft LOA	26	26	Yes
<125' LOA, w/observer	55	10	Only if in GOA Rockfish Program
<125' LOA, w/o observer	5	0	No
Total, all catcher vessels	86	36	

Number of vessels is based on participation in either 2013 or 2014 Bering Sea pollock fishery.
w/observer means a catcher vessel that brings catch on board and delivers catch to a shoreside processor or stationary floating processor. These vessels are in the full observer coverage category and required to carry an observer.
w/o observer means a catcher vessel that does not bring catch on board and only delivers unsorted codends to a mothership. These vessels are not required to carry observers.
only if in GOA RP means only if the vessel participates in the Gulf of Alaska Rockfish Program

Based on recent participation information, expanding ATLAS requirements would apply to 55 catcher vessels less than 125 feet LOA. Ten of these catcher vessels already have ATLAS installed on a computer on board the vessel, either because they participate in the Gulf of Alaska Rockfish Program (5 of the vessels) or they have installed ATLAS voluntarily (5 of the vessels). Thirteen of these 55 trawl catcher vessels also participate in the Rockfish Program. All catcher vessels participating in the Rockfish Program are required to provide a computer with ATLAS installed for observer data entry. Five of the 13 vessels have ATLAS installed on a computer on board the vessel. The remaining 8 comply with the requirement by sharing one or more laptops with ATLAS installed on them.

Most vessels required to install ATLAS on a computer onboard the vessel comply with this requirement by allowing NMFS to install ATLAS on an existing computer on the vessel. When this occurs, the cost of providing the computer is minimal.

The requirement to have ATLAS installed on a computer accessible to the observer imposes costs associated with scheduling a visit by NMFS personnel to install the software. In addition, current regulations at § 679.51(e) require that the computer provided for observer data entry is "functional and operational." These regulations do not provide an exception for fishing without a functional and operational computer with ATLAS installed on it. Therefore, a vessel owner or operator also will incur costs associated with supplying power for the computer, equipment replacement or repair, and possibly lost fishing time, if the computer fails at any time while it is required.

Requiring vessels to provide a computer with ATLAS installed on it for observer data entry will save NMFS the costs of transmitting hand written observer data entry forms via fax. Observers currently transmit data from vessels without ATLAS at the end of each fishing trip. NMFS estimates that it takes 3 hours to enter data received by fax from an observer. Data entry technicians cost $18/hour. Therefore, the estimated cost to NMFS of entering faxed data is $54 per delivery. Based on the number of trips by catcher vessels less than 125 feet LOA in the Bering Sea pollock fishery, NMFS estimates that the average cost of entering faxed data is about $50,000 per year. This cost would be eliminated with the requirement for these vessels to have a computer on board the vessel with ATLAS installed on it because observers could enter their data during the trip and transmit the data electronically from the processor at the end of the fishing trip.

All AFA inshore processors are required to allow observers to "use the … processor's communication equipment and personnel, on request, for the entry, transmission, and receipt of work-related messages, at no cost to the observers or the United States." Processors currently are required to allow observers to fax observer data entry forms to NMFS. Plant observers enter and transmit data from a computer provided by the processor. The proposed expansion of the ATLAS requirements to catcher vessels less than 125 feet LOA will require the processors to allow vessel observers access to a computer for transmission of data to NMFS. Any costs associated with faxing observer data should be eliminated or greatly reduced by the proposed action. Faxing would only be necessary in very unusual circumstances.

No additional charges or burden are caused by this requirement, because all participants already comply.

b. Notification of observer before handling the vessel's Bering Sea pollock catch [NEW]

The requirement to notify the observer at least 15 minutes before transfer of fish from one location to another on the vessel or any sorting, handling, or discard of catch prior to its delivery imposes an additional cost on the vessel operator. Current regulations at 50 CFR 679.51(e)(1)(vi) require the vessel operator to notify the observer at least 15 minutes before fish are brought on board the vessel or transferred from the vessel.

The proposed new notification requirement would provide the observer the opportunity to monitor the movement or sorting of catch after it is brought on board the vessel, to ensure that no salmon are discarded and to monitor the re-securing of loose fish on deck. The existing notification requirement covers the initial sorting and storing of loose fish from each haul. The new notification requirement would apply if the vessel crew moved, sorted, or discarded catch from the secured fish on deck after its initial storage and before it was delivered.

Operators of vessels and managers of shoreside processors and SFPs that are required to retain salmon must designate and identify to the observer aboard the vessel, or at the shoreside processor or SFP, a crew person or employee responsible for ensuring all sorting, retention, and storage of salmon occurs according to the requirements.

The cost of the new notification requirement to an individual vessel operator will depend on how often fish stored on deck are moved, stored, or discarded during the trip and the amount of crew time required to secure the loose fish. No form exists for this notice; vessel personnel verbally inform the observer that a scale test is scheduled.

Notify observer of Bering Sea pollock catch, Respondent	
Estimated number of respondents	**60**
Total annual responses	**200**
Number of responses =200	
Total Time burden (6.67)	**7**
Time per response = 2 minutes	
Total personnel cost ($37/hr x	**$259**
Total miscellaneous cost	**0**

Notify observer of Bering Sea pollock catch, Federal Government	
Total annual responses	**0**
Total Time burden	**0**
Total personnel cost	**0**
Total miscellaneous cost	**0**

It is anticipated that the information collected will be disseminated to the public or used to support publicly disseminated information. NOAA Fisheries will retain control over the information and safeguard it from improper access, modification, and destruction, consistent

with NOAA standards for confidentiality, privacy, and electronic information. See response to Question 10 of this Supporting Statement for more information on confidentiality and privacy. The information collection is designed to yield data that meet all applicable information quality guidelines. Prior to dissemination, the information will be subjected to quality control measures and a pre-dissemination review pursuant to Section 515 of Public Law 106-554.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.

The data submitted by observers using the ATLAS software is accomplished online. Notification of the observer is done verbally.

4. Describe efforts to identify duplication.

No duplication exists with other information collections.

5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.

The proposed action applies only to those entities that participate in the directed pollock trawl fishery in the Bering Sea. These entities include vessels harvesting pollock under the American Fisheries Act (AFA) and the six Western Alaska Community Development Quota (CDQ) groups that receive allocations of pollock. Due to their status as non-profit corporations, the six CDQ groups are identified as "small" entities for RFA purposes. This collection of information does not impose a significant impact on small entities.

6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.

This use of a vessel's or facility's computer, software, and data transmission is required for the efficient operation of the Observer Program. Without this capability, the goals and objectives of the Observer Program and effective management of the Alaska groundfish fisheries would be jeopardized.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

Not applicable.

8. Provide information on the Federal Register Notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

A proposed rule was published in the Federal Register on June 19, 2014 (79 FR 35150) requesting public comments. No comments were received on this information collection, although public comments were received on the rule. They are appended.

9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.

No payment or gift to respondents is provided under this program.

10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.

NMFS adheres to policies and procedures for protecting confidentiality of data submitted to or collected by NMFS as prescribed by a Reciprocal Data Access Agreement (1999) among the National Oceanic and Atmospheric Administration, the Alaska Department of Fish and Game (ADF&G), and the Alaska Commercial Fishery Entry Commission which are more stringent than the procedures prescribed by NOAA Administrative Order 216-100.

The information collected is confidential under section 402(b) of the Magnuson-Stevens Act (16 U.S.C. 1801, *et seq*.). The information is also confidential under NOAA Administrative Order 216-100, which sets forth procedures to protect confidentiality of fishery statistics.

All information collected is in a system of records: NOAA-15, Monitoring of National Marine Fisheries Service (NMFS) Observers, amended version published July 31, 2014 (79 FRN 44405) and effective September 18, 2014.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

This information collection does not involve information of a sensitive nature.

12. Provide an estimate in hours of the burden of the collection of information.

Estimated total respondents: 60. Estimated total responses: 200. Total estimated burden hours: 7 hr. Estimated total personnel cost: $259.

13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in Question 12 above).

Estimated total miscellaneous costs: $0.

14. Provide estimates of annualized cost to the Federal government.

Estimated total responses: 0. Estimated total burden hours: 0. Estimated total personnel cost: $0.

15. Explain the reasons for any program changes or adjustments.

This action requires observer access on catcher vessels less than 125 ft LOA to use the vessel's communications equipment and personnel, on request, for the confidential entry, transmission, and receipt of work-related messages, at no cost to the observer or the United States.

Access to a computer for electronic data entry significantly increases the speed observer data can be made available for inseason management and catch accounting. Further, the data validation measures built into the software improves initial data quality and decreases the need for corrections during the observer debriefing process.

There is no change to burden, as this is a temporary new collection. After approval of this request, and of a revision to OMB Control No. 0648-0318 in relation to RIN 0648-BF36, this burden will be added to the existing collection.

16. For collections whose results will be published, outline the plans for tabulation and publication.

No publication of information is anticipated.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

Not applicable.

18. Explain each exception to the certification statement.

Not applicable.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not employ statistical methods.

Comments Received on BF25 (03/31/2016)
Revised

NMFS published the proposed rule to implement Amendment 110 on February 3, 2016 (81 FR 5681) with comments invited through March 4, 2016. The Secretary of Commerce approved Amendment 110 on April 7, 2016. NMFS received 15 comment letters containing 27 specific comments. The commenters consisted of individuals, representatives of the pollock fishery participants, representative of groundfish fishery participants, Alaska Native organizations, and the State of Alaska.

Comment 1: We support the comprehensive salmon bycatch avoidance program outlined in the proposed rule and believe it will be more effective in meeting the Council's objectives for this action, including minimizing salmon bycatch, responding to changing conditions of abundance, and avoiding Alaska-origin salmon stocks.
Response: NMFS acknowledges the comment.

Comment 2: Consistent genetic stock composition data show that Alaska-origin stocks continue to comprise a majority of the Chinook salmon bycatch and almost a quarter of the chum salmon bycatch in the Bering Sea. Recognizing the importance of these stocks to western Alaska commercial and subsistence users, and our increased understanding of the areas and times of year in which Alaska Chinook and chum salmon stocks are more predominate in the bycatch, Amendment 110 provides the necessary flexibility to respond to and incorporate new information in the bycatch avoidance program.
Response: NMFS acknowledges the comment.

Comment 3: Reducing salmon bycatch in the Bering Sea pollock fishery is critical to the future of Chinook salmon runs. Amendment 110 is urgently needed because of the dire status of Chinook salmon stocks in western Alaska. Amendment 110 and the proposed regulations are an important step in further reducing salmon bycatch in the pollock fishery. Amendment 110 will continue to drive bycatch down; however, constant vigilance is required to ensure that the PSC limits are never actually met.
Response: NMFS acknowledges the comment.

Comment 4: It is essential to include the provisions to integrate chum salmon bycatch measures with the Chinook salmon bycatch measures by incorporating them into the IPA and including the accountability and transparency measures.
Response: Amendment 110 and this final rule incorporate chum salmon avoidance into the IPAs established under Amendment 91. Under Amendment 110, incorporating chum salmon into the IPAs provides measures to prevent high chum salmon bycatch, while also giving participants in the pollock fishery the flexibility to avoid Alaska chum stocks, and to use coordinated management under the IPAs to adapt quickly to changing conditions. The Council determined and NMFS agreed that this action for chum salmon bycatch strikes an appropriate balance between regulatory requirements and adaptive management.

◄**Comment 5**: Care needs to be taken to make sure the theoretical salmon avoidance schemes proposed do not make matters worse for Chinook salmon in the attempt to avoid chum salmon.

Response: The chum salmon-specific requirements in the Amendment 84 implementing regulations sometimes prevent fishery participants from making decisions to avoid Chinook salmon when vessels encounter both chum salmon and Chinook salmon. Adding chum salmon measures to the IPAs increases flexibility in responding to changing conditions and provides greater incentives to reduce bycatch of both salmon species, thereby making salmon bycatch management more effective, comprehensive, and efficient.

◄**Comment 6**: The measures designed to reduce Chinook salmon bycatch are useful tools to fine-tune the IPAs to mandate greater bycatch reduction.
Response: NMFS agrees. Amendment 110 and this final rule modify the IPAs to increase the incentives for fishermen to avoid Chinook salmon. The Council and NMFS recognize that the IPAs were effective at providing incentives for each vessel to avoid Chinook salmon, but that additional measures were necessary to address higher Chinook salmon PSC rates observed in October (the last month when the pollock fishery is authorized to operate) and to address concerns with individual vessels that consistently have significantly higher Chinook salmon PSC rates relative to other vessels fishing at the same time. The Council and NMFS wanted to ensure the use of salmon excluder devices (i.e., gear modifications that are designed to exclude salmon bycatch while retaining pollock) and a rolling hotspot program. These new provisions increase the incentives to reduce Chinook salmon bycatch within the IPAs, provide an opportunity for IPAs to increase their responsiveness in October, and improve performance of individual vessels.

Comment 7: The entire history of the Bering Sea pollock fishery and its impacts on western Alaska salmon has been a disaster and it is within this context that we remain opposed to the allowance of any salmon bycatch during the pollock fishery. Driving bycatch continuously lower, with an ultimate goal of zero, is essential. NMFS should prioritize its responsibilities based on moral and ethical obligation, in addition to its legal obligations, to those tribal communities whose very survival depends on a future of salmon returning in sufficient numbers to their rivers.
Response: The Council recommended and NMFS approved Amendment 110 because it best balances the need to minimize salmon bycatch to the extent practicable while providing the pollock fleet the flexibility to harvest the pollock TAC. NMFS has complied with all applicable laws, executive orders, and international obligations in approving and implementing Amendment 110. Preventing all salmon bycatch would not meet the purpose and need for this action and would not meet NMFS' obligations under the Magnuson-Stevens Act.

While salmon bycatch in the pollock fishery may be a contributing factor in the decline of salmon, the absolute numbers of the ocean bycatch that would have returned to western Alaska are expected to be relatively small due to ocean mortality and the large number of other river systems contributing to the total Chinook or chum salmon bycatch. For Chinook salmon, Section 3.5.1 of the Analysis explains that the Chinook salmon bycatch that would have returned to western Alaska rivers equates to approximately 2.3 percent of coastal western Alaska run size in recent years. For chum salmon, Section 3.5.1 of the Analysis explains that the chum salmon bycatch that would have returned to western Alaska rivers equates to approximately less than half a percent of coastal western Alaska run size in recent years. Under Amendment 110 and this final rule, these impact rates will be reduced further as the pollock fleet improves its ability to avoid salmon at all times.

Although the reasons for the decline of Chinook salmon and some runs of chum salmon are not completely understood, scientists believe they are predominately natural. Changes in ocean and river conditions, including unfavorable shifts in temperatures and food sources, likely cause poor survival of Chinook salmon and some runs of chum salmon.

Comment 8: The key component of Amendment 110 and the proposed rule is to reduce the performance standard and PSC limit in years of low Chinook salmon abundance in western Alaska. The limits set in Amendment 91 were far too high to ensure a healthy future for our salmon runs. The mechanism to lower these limits in times of low Chinook salmon abundance is the minimum step NMFS must take at this time to fulfill numerous legal responsibilities to reduce the allowable salmon bycatch in the pollock fishery. Taking action now to lower the PSC limit and performance standard in years of extremely low abundance is a critical step to ensure that bycatch is reduced in the years when every source of mortality must be reduced.
Response: NMFS acknowledges the comment.

Comment 9: Amendment 110 reduces the number of Chinook salmon that can be taken as bycatch in years of very low Chinook salmon abundance in western Alaska, which is critical to maintaining objectives under National Standard 9. In years of very low Chinook salmon abundance, the State of Alaska struggles to meet salmon escapement goals in important western Alaska systems, and only does so by prohibiting any directed Chinook salmon harvest for subsistence, as well as restricting subsistence harvest of other species, such as chum salmon, to minimize Chinook salmon mortalities.
Response: NMFS acknowledges the comment.

Comment 10: Amendment 110 will link bycatch limits to a broad index of Chinook salmon abundance based on the Kuskokwim, Unalakleet, and Upper Yukon aggregate stock grouping — the 3-System Index. The 3-System Index includes significant river systems for subsistence fisheries in Alaska and provides a broad regional representation of western Alaska Chinook salmon stocks. Any additional fish returning to these rivers in years of very low abundance improves the State's ability to meet escapement goals.

The Analysis clearly outlined the objectives that proposed indices were evaluated against and the 3-System Index was identified as the most robust and appropriate for this purpose. The primary component of the 3-System Index is preliminary escapement information from total run reconstruction using methods outlined in State publications. The State will provide the 3-System Index estimate to NMFS annually by October 1 and is committed to maintaining a transparent and accessible process for stakeholders as the State improves its understanding of these systems. The State will present any substantive changes to the methods used in developing the 3-System Index to the Council and it's Scientific and Statistical Committee.
Response: NMFS acknowledges the comment.

Comment 11: The provision to reduce the PSC limit and performance standard in years of low Chinook salmon abundance and the State of Alaska's 3-System Index used to determine when Chinook salmon abundance is low are unwarranted, unnecessary, not sound science, and not responsible management. It unfairly targets the pollock fishery and penalizes the fishery for circumstances beyond its control. Science has shown that there is not a relationship between bycatch in the pollock fishery and the size of the runs in coastal western Alaska.

Response: NMFS disagrees. The provisions to reduce the PSC limit and performance standard in years of low abundance are necessary to achieve the program goals. The Council and NMFS determined that a lower performance standard and PSC limit are appropriate at low levels of Chinook salmon abundance in western Alaska because most of the Chinook salmon bycatch comes from western Alaska. These provisions work in conjunction with the changes to the IPA requirements to ensure that Chinook salmon bycatch is avoided at all times, particularly at low abundance levels.

The Council and State conducted an extensive analysis about the appropriate index to use to indicate a low Chinook salmon abundance year. Low Chinook salmon abundance years are years characterized by difficulty meeting escapement goals and in-river salmon fisheries being severely restricted or fully closed. Section 2.6 of the Analysis evaluates various indices and shows that the 3-System Index (Unalakleet, Upper Yukon, and Kuskokwim river systems) meets the objectives. These river systems provide a broad regional representation of stocks and signify very important river systems and subsistence fisheries in western Alaska. Subsistence harvests from these three river systems account for up to 87 percent of the statewide subsistence harvest of Chinook salmon. As shown in the Analysis, having more than one system in the index and having broad regional representation makes the index more robust. The Analysis also shows a clear natural break in the data that index sizes less than 250,000 Chinook salmon correspond to years with historically low run sizes.

The inclusion of a lower PSC limit and performance standard is based on the need to reduce bycatch when these Chinook salmon stocks are critically low in order to minimize the impact of the pollock fishery on the stocks. Any additional Chinook salmon returning to Alaska rivers improves the ability to meet the State's spawning escapement goals, which is necessary for long-term sustainability of Chinook salmon and the people reliant on salmon fisheries. While the performance standard is the functional limit in the IPAs, the Council and NMFS determined that the 60,000 PSC limit should also be reduced given the potential for decreased bycatch reduction incentives should a sector exceed its performance standard before the PSC limit is reached. The reduced PSC limit is intended to encourage vessels to avoid bycatch to a greater degree in years of low abundance, and to set a maximum permissible PSC limit that reduces the risk of adverse impact on stocks in western Alaska during periods of low abundance.

See the response to Comment 7 for a discussion of the relationship between bycatch in the pollock fishery and the size of the runs in coastal western Alaska.

Comment 12: The history of Alternative 5, reducing the PSC limit and performance standard in years of low Chinook salmon abundance, and the dramatic changes to it between the Council initial review in December 2014 and final action in April 2015, are hard to track and are not well documented in the final Analysis.

Response: Sections 2.6.3 and 2.6.4 of the Analysis discuss of the provision to reduce the PSC limit and performance standard in years of low Chinook salmon abundance (see ADDRESSES). This provision was recommended along with the other four provisions as Alternative 6. Section 2.6.4 explains the history of the 3-System Index and the analysis the State undertook to develop the appropriate Chinook salmon abundance index for determining low Chinook salmon abundance in western Alaska.

Comment 13: There is no discussion in the EA about the methods used to determine a "natural break." The EA identifies 250,000 Chinook as a natural break in the "data," where the data is

actually model output. A formal definition for this threshold is required, as there is no guarantee that future models, or revisions to input data, will present a natural break in the model output. Instead of the 250,000 Chinook salmon threshold, NMFS should define (in probabilistic terms) the threshold level in which to set the performance standard and PSC limit, rather than identifying an arbitrary natural break in future model output.

Response: Section 2.6.4 of the analysis provides a description of the methods for use of in-river run reconstructions with the 3-System Index and rationale for this choice of index and for the 250,000 Chinook salmon threshold. The evaluation of the break in the years is included in the Analysis and represented the best available scientific information.

In-river run reconstructions represent an estimate of all fish harvested in the river and respective coastal areas plus escapement. The relationship upon which the threshold was determined is the relationship between final in-river run abundance of the 3-System Index and the bycatch of adult equivalent Chinook salmon attributed to all western Alaska stocks. In Section 2.6.4.2 of the Analysis, each point in Figure 8 represents a single year in the relationship plotted. The years were referred to in the Analysis as data points for purposes of describing the clustering of these years below a breakpoint which falls above 200,486 Chinook salmon and below 286,692 Chinook salmon (see Table 6 in Section 2.6.4.5 of the Analysis). The clustering of years below 200,486 Chinook salmon also matches years which have been categorized as low abundance years for all three systems due to failures to meet escapement goals and restrictions on subsistence harvests, in addition to Federal fisheries disaster declarations. With this information, the Council determined that a threshold of 250,000 Chinook salmon was an appropriate value within this range to represent when Chinook salmon were in a low abundance year and to base the determination that the lower PSC limit and lower performance standard would be in place for the subsequent year. This information was also used by the Council to select the 3-System Index, a transparent, easily accessible (published ADF&G reports), and annually updated index. The management measure, to reduce the PSC limit and performance standard, is tied to the selected threshold of 250,000 Chinook salmon based on the 3-System Index. No re-estimation of the threshold is planned on an annual basis or in subsequent years.

Comment 14: Clarify in the final rule a transparent public process for ensuring that the State provides the data, assumptions, and methods it uses to generate the 3-System Index to NMFS, the public, and the Council.

Response: NMFS agrees that a transparent public process is necessary for ensuring that the 3-System Index represents the best available scientific information. However, it is not appropriate to establish a stock assessment and review process between NMFS, the Council, and the State in Federal regulations. NMFS is committed to working with the Council and the State to define a transparent process to ensure that the data, assumptions, and methods used in the 3-System Index continue to incorporate the best available scientific information and provide a reliable indicator of Chinook salmon abundance necessary to reduce the PSC limit and performance standard. NMFS will work with the State and the Council to refine this process before the State provides the index for the 2017 fishing year on October 1, 2016.

Comment 15: The State must use the 3-System Index and associated methods and models described the Analysis and recommended by the Council in April 2015. Any changes to the 3-System Index and associated methods and models should be vetted through the Council and its Scientific and Statistical Committee. Other models and methods may produce different run size

estimates and a different threshold of low abundance. Structural changes to the run-reconstruction model would have resulted in a different "natural break" in the data that was used to determine the threshold for the 3-System Index. There are no provisions in the proposed rule to accommodate changes in the threshold that are associated with future changes to the run-reconstruction model, or revisions to the historical input data.

Response: The Council and State conducted an extensive analysis about the appropriate index to use to indicate a low Chinook salmon abundance year. Low Chinook salmon abundance years are years characterized by difficulty meeting escapement goals and in-river salmon fisheries being severely restricted or fully closed. Section 2.6 of the Analysis evaluates various indices and shows that the 3-System Index (Unalakleet, Upper Yukon, and Kuskokwim river systems) meets the objectives. These river systems provide a broad regional representation of stocks and signify very important river systems and subsistence fisheries in western Alaska. Subsistence harvests from these three river systems account for up to 87 percent of the statewide subsistence harvest of Chinook salmon. As shown in the Analysis, having more than one system in the index and having broad regional representation makes the index more robust. The Analysis also shows a clear natural break in the data that index sizes less than 250,000 Chinook salmon correspond to years with historically low run sizes.

NMFS agrees that any changes to the 3-System Index or the methods and models used should be reviewed by the Council and its Scientific and Statistical Committee. NMFS is committed to working with the State and the Council to define a transparent process for review of the State's 3-System Index and associated methods and models. However, the Council did not prescribe that the State must use the exact methods that were used to develop the 3-System Index for annually calculating the index. Methods and models change over time based on the best available scientific information, and this process is designed to continue to apply relevant methods to the 3-System Index. The 3-System Index is a type of stock assessment and should be subject to a similar transparent process of improvement and review.

In recommending Amendment 110, the Council chose a threshold of 250,000 Chinook salmon on which to determine when Chinook salmon are at low abundance. In order to change that threshold amount, the Council would need to amend the FMP and NMFS would need to amend the regulations. The process for changing the 250,000 Chinook salmon threshold would be the same as for any FMP amendment.

Comment 16: NMFS does not have the latitude to just receive and apply ADF&G's estimate of Chinook salmon abundance from the 3-System Index without analysis to independently verify the estimates. Applying ADF&G's estimate would constitute delegation of management to the State of vessels fishing for pollock outside the boundaries of the State, which cannot occur because an applicable Federal fishery management plan does not authorize delegation to the State. The proposed rule grants ADF&G sole authority over the annual run size estimate and does not contemplate independent verification of the estimate by NMFS. NMFS compares the estimate to the low abundance threshold fixed in the regulations to determine whether or not a year is one of low Chinook salmon abundance, which in turn determines the following year's Chinook salmon PSC limit and performance standard applicable to vessels participating in the Federal pollock fishery. That determination does not involve any discretion on the part of NMFS.

Response: Each year, NMFS will rely on a Chinook salmon abundance estimate from the State using the established 3-System Index as the best available scientific information on Chinook

salmon abundance in western Alaska. NMFS' independent verification of the 3-System Index will not be a condition for using the 3-System Index to determine a low Chinook salmon abundance year.

The 3-System Index was reviewed by the Council's Scientific and Statistical Committee and recommended by the Council. NMFS relies on the State for this abundance estimate because the State has management authority over salmon and collects and analyzes the scientific data necessary to estimate Chinook salmon abundance. Relying on the State to provide a type of stock assessment is not the same as delegating authority to the State to manage the pollock fishery. NMFS will use the Chinook salmon abundance index to apply the appropriate PSC limit and performance standard. The PSC limit and performance standard are the measures Council and NMFS determined were required in low Chinook salmon abundance years to achieve the program goals.

Under Amendment 110, it is each pollock vessel's responsibility to avoid salmon bycatch at all times. If fishery participants maintain their bycatch below their performance standard and PSC limit, then these measures achieve their purpose without closing the pollock fishery. Alternatively, the Council could have recommended to permanently reduce the performance standard and PSC limit in order to achieve the goals of encouraging vessels to avoid bycatch to a greater degree in years of low abundance and reducing the risk of adverse impact on stocks in western Alaska during periods of low abundance. Instead, by using the 3-System Index, the Council recommended a reduced PSC limit and performance standard only during years of low Chinook salmon abundance.

Comment 17: To avoid unauthorized delegation, the proposed rule should be revised to require that NMFS annually confirm that the ADF&G estimate was calculated using the Council-approved index and models from April 2015 and reproduce the estimate using the data provided by ADF&G. These standards would address the requirement that, when a core agency function —such as PSC management—is involved, there must be Federal standards in place and a process for NMFS to review the application of those standards.

Response: The Council designed and this final rule implements a program where ADF&G provides NMFS an estimate of Chinook salmon abundance using the 3-System Index for western Alaska. The Council did not constrain the State to only using the methods, data sources, and models developed for Council final action in April 2015. To do so would result in an index that failed to use the best scientific information available to adapt to improvements in methods, data, and models. Therefore, NMFS did not change this final rule to require that ADF&G use the methods and data sources presented to the Council in April 2015.

NMFS relies on the State to produce the 3-System Index annually because the State has management authority over salmon and collects and analyzes the scientific data necessary to estimate Chinook salmon abundance. While NMFS will review the 3-System Index provided each October 1, NMFS does not need to reproduce ADF&G's Chinook salmon abundance estimate each year. Therefore, NMFS did not change this final rule to require that NMFS reproduce the estimate using the models and data provided by ADF&G.

Comment 18: What action would NMFS take if the State is unable to provide an estimate of Chinook salmon abundance by October 1? NMFS should not determine low abundance if ADF&G does not timely deliver an estimate, whether because of difficulty obtaining relevant data, budget restrictions, or other reason. The final rule should specify that NMFS will not

determine it is a year of low Chinook salmon abundance if ADF&G does not provide a Chinook salmon abundance estimate by October 1. If no such determination is made, the 60,000 Chinook salmon PSC limit and 47,591 Chinook salmon performance standard would apply.
Response: Absent a letter from the State showing Chinook salmon abundance is equal to or below the 250,000 Chinook salmon threshold, the 60,000 PSC limit and 45,591 performance standard will remain in effect. The State's reporting of the 3-System Index by October 1 is necessary to determine if it is a low Chinook salmon abundance year and to reduce the PSC limit and performance standard in the next fishing year. A change to this final rule is not necessary.

Comment 19: Change the text of Amendment 110 to state that NMFS will verify ADF&G's estimate of abundance and that ADF&G must use the index approved by the Council at its April 2015 meeting.
Response: NMFS cannot change amendment text after it has been transmitted by the Council and NMFS as published in the Notice of Availability. Under section 304(a) of the Magnuson-Stevens Act, NMFS is limited to approval, disapproval, or partial approval of a fishery management plan amendment. If NMFS disapproves or partially approves an amendment, NMFS has to notify the Council and specify the applicable law with which the amendment is inconsistent, the nature of such inconsistencies, and make recommendations to conform to applicable law. The Council may then submit a revised amendment to the Secretary of Commerce. Amendment 110 and the provision to reduce the PSC limit and performance standard are consistent with applicable law and the commenter did not recommend disapproval or partial disapproval of Amendment 110.

NMFS responds to the issue of verifying ADF&G's Chinook salmon abundance index in the response to Comment 16. NMFS responds to the issue of requiring ADF&G to use the index approved by the Council at its April 2015 meeting in the response to Comment 15.

Comment 20: Many comments expressed concerned with a letter ADF&G sent to NMFS on September 17, 2015, before Amendment 110 was approved and implemented. In this letter, ADF&G provided an index estimate of 252,000 Chinook salmon to provide NMFS, the Council, and the public with a preview of Chinook salmon abundance using the 3-System Index for 2016. Commenters are concerned that this estimate reflected changes the State made in how it modeled abundance from the methods outlined in the Analysis. ADF&G subsequently sent another letter on March 3, 2016, revising the index estimate to 279,000 Chinook salmon. ADF&G made this revision to the index estimate based largely on the public review of the 3-System Index used to inform the September 17, 2015, letter.
Response: In their March 3, 2016, letter, ADF&G explains that the September 2015 letter had provided a post-season run size estimate for the 3-System Index using a Kuskokwim River run reconstruction estimate that employed a modification to the model that ADF&G incorporated after the Council's analysis, and that modification has not yet been reviewed by the Council. As such, ADF&G amended the 2015 post-season run size estimate to reflect the unmodified model and will continue to use the unmodified model in the 3-System Index until the Council determines the modification is appropriate to use.

Further, ADF&G explains in their comment letter (see ADDRESSES) that the primary component of the post-season run index is preliminary escapement information and the total run reconstruction methods outlined in ADF&G publications. ADF&G is committed to maintaining a transparent and accessible process for stakeholders and ADF&G will present any substantive

changes to the methods used in developing the 3-System Index to the Council and its Scientific and Statistical Committee.

Comment 21: Commenters made a number of technical comments on the State's 3-System Index and the methods and models that the State used to develop the index and to generate the September 17, 2015, index estimate of 252,000 Chinook salmon.
Response: The State can modify the 3-System Index over time to represent the best available scientific information, as with all stock assessments. These comments are important for that process. However, they are outside of the scope of Amendment 110 and this final rule.

◄**Comment 22**: Good fisheries management calls for a reduction in salmon bycatch. The pollock fishery should be managed in a way that rewards those fishermen that successfully avoid salmon and other bycatch and reduces quota and opportunity for those fishermen that have significant salmon or other bycatch.
Response: Amendment 110 and this final rule improve the IPAs implemented under Amendment 91 to include chum salmon avoidance measures and to increase the ability for vessels to avoid Chinook salmon. The IPA component is an innovative approach that is designed to provide incentives for each vessel to avoid bycatch at all times with the goal of reducing bycatch below the PSC limits. The requirements for an IPA are performance based (i.e., they address what an IPA should accomplish); any number of different incentive plans could meet these objectives. The requirements for the IPA are performance based because fishery participants have more tools available to them to create incentives to minimize bycatch at the vessel level than could be prescribed through Federal regulation. As designed, an IPA can be more responsive and adaptive than Federal regulations and can use tools not available to managers. IPAs are flexible in allowing the pollock fleet to modify the IPAs as performance information becomes available to ensure that the IPAs meet the goals in Amendment 91. Additionally, this final rule requires the IPA representative to submit an annual report to the Council that will be the primary tool through which the Council will evaluate whether its goals for the IPAs are being met.

◄**Comment 23**: Include a well thought-out plan for this Chinook salmon bycatch avoidance program and outline the possible increased incentives to achieve maximum effectiveness. Without this, the program could have little to no impact on Chinook salmon bycatch. It is ideal to have the IPA incentives visible to the public in order to have complete transparency of industry.
Response: The Council analyzed a number of specific incentive measures in Section 3.5.3 of the Analysis. The Analysis includes the new IPA requirements implemented with this final rule and provides examples of ways the fishery participants could modify their IPAs to meet those requirements. Regulations establish the performance based requirements that each IPA must accomplish. Any number of different incentive plans could meet these regulatory requirements. The requirements for the IPA are performance based because fishery participants have more tools available to them to create incentives to minimize bycatch at the vessel level than could be prescribed through Federal regulation. As designed, an IPA can be more responsive and adaptive than Federal regulations and can use tools not available to managers, such as fees and penalties.

Additionally, Federal regulations include a number of provisions to ensure transparency of the IPAs. The Amendment 91 implementing regulations require the IPA representative to submit an annual report to the Council as the primary tool through which the Council will evaluate whether its goals for the IPAs are being met. Also, the economic data collection program is designed to provide quantitative information to evaluate how an IPA influences a vessel's operational decisions to avoid Chinook salmon bycatch. This final rule adds additional requirements for IPA transparency, including requiring IPAs to notify at least one third party group representing western Alaskans of closure areas and any violations of the rolling hot spot program and requiring the IPA representative to describe in the IPA annula report how the IPA addresses the goals and objectives in the IPA provisions related to chum salmon.

Comment 24: Research should be done on the Chinook salmon bycatch to determine which stock they are from since there are some stocks from which the Chinook salmon catch must be limited. If Chinook salmon from those stocks are being taken by the pollock fishery in a year in which those Chinook salmon stocks are limited, then the pollock fishery should have to wait till those Chinook salmon leave the areas in which pollock are taken.

Response: NMFS conducts research on the Chinook salmon caught in the pollock fishery. Amendment 91 improved the collection of Chinook salmon information by increasing observer coverage to 100 percent for all vessels and shoreside processing facilities and by requiring a census of Chinook salmon in every haul or fishing trip. NMFS also collects and analyzes scientific data and biological samples from the Chinook salmon bycatch. NMFS conducts a genetic analysis of samples from the Chinook salmon bycatch in the pollock fishery to determine the overall stock composition of the bycatch. The most recent analysis is available from the Alaska Fisheries Science Center (http://www.afsc.noaa.gov/Publications/AFSC-TM/NOAA-TM-AFSC-310.pdf).

Comment 24: The over allocation of pollock has ruined the livelihoods of all that depend on it for a living. A two-thirds reduction in the Bering Sea pollock TAC would get escapement to the Yukon River system and raise the price of the pollock products. We have been giving pollock away at the expense of traditional Alaskan salmon fisheries. Everything that swims in the Bering Sea eats pollock and every fishery and northern fur seals have declined due to the over allocation of pollock.

Response: Setting the Bering Sea pollock TAC is outside the scope of this action. There is no evidence that a two-thirds reduction in the pollock TAC would measurably increase escapement to the Yukon River system. While salmon bycatch in the pollock fishery may be a contributing factor in the decline of salmon, the absolute numbers of the ocean bycatch that would have returned to western Alaska are expected to be relatively small due to ocean mortality and the large number of other river systems contributing to the total Chinook or chum salmon bycatch. For Chinook salmon, Section 3.5.1 of the Analysis explains that the Chinook salmon bycatch that would have returned to western Alaska rivers equates to approximately 2.3 percent of coastal western Alaska run size in recent years. For chum salmon, Section 3.5.1 of the Analysis explains that the chum salmon bycatch that would have returned to western Alaska rivers equates to approximately less than half a percent of coastal western Alaska run size in recent years. Under Amendment 110 and this final rule, these impact rates will be reduced further as the pollock fleet improves its ability to avoid salmon at all times.

NMFS agrees that much needs to be learned about the potential effects of the pollock fishery on northern fur seals and about fur seal biology. A description of past and ongoing research is available on the National Marine Mammal Laboratory's website (http://www.afsc.noaa.gov/nmml/species/species_nfs.php). This research includes studies that should provide additional information regarding the pollock fishery interactions with northern fur seals. NMFS is actively pursuing research on northern fur seals to help us understand the reasons for the decline and potential threats to the population. The research projects investigate a broad range of topics related to fisheries interactions around the Pribilof Islands, including studies to quantify area-specific food habits and animal conditions, describe foraging behavior in different environments, delineate foraging habitats, and model habitat suitability in relation to fur seals and their overlap with commercial fisheries.

Comment 25: The Analysis did not fully describe the potential impacts to the pollock fishery under the lower PSC performance standard and limits in years of low Chinook salmon abundance. The Analysis only compared the impacts to current bycatch levels and not to potential or historical levels. Little to no forgone pollock harvest was noted under any scenario. Amendment 110 and the proposed rule are a potential threat that could suspend fishing operations in one of the largest fisheries in the world. Large juvenile Chinook salmon year classes persist in the marine environment for multiple years before returning as mature fish to the river systems. Recent unpredictability in the BSAI ecosystem likely only increases the probability of constraining the pollock fishery in future years based on management decisions made today. The Analysis should have attempted to quantify the probability of the limit shutting the fishery down in a given year.

Response: The purpose of a RIR is to analyze the potential costs and benefits associated with a regulatory change. To do so, the RIR must compare potential effects of the alternatives being considered with the regulatory status quo condition. In this case, the status quo is defined by the incentive-based Chinook salmon PSC avoidance structure established under Amendment 91. Since Amendment 91, Chinook PSC has been much lower than the "potential or historical" levels the commenter presumably is referring to and these lower levels, as properly considered in the analysis, represent the regulatory status quo conditions. Historically higher levels of bycatch occurred under differing regulatory conditions, do not represent status quo conditions, and are inappropriate to consider in the Analysis.

Amendment 110 and this final rule provide further incentive for industry to avoid Chinook salmon PSC, particularly in years of low Chinook salmon abundance. As explained in Section 4.8.2 of the Analysis, economic analysis has demonstrated the ability of a catcher-processor fleet to adapt their behavior to reduce PSC when faced with individual caps. The reduced caps, in times of low Chinook abundance, are not intended to shut the pollock fishery down. They are intended to alter fishing behavior to further avoid Chinook PSC. The flexibility given to industry to self-regulate PSC avoidance, provided in Amendment 91, remains and is augmented by this rule. Thus, the probability of the limit shutting down the fishery in a given year is dependent on changes in fishing activity that are not presently known and are dependent on the actions of the fishing fleet.

Comment 26: Revise the Regulatory Flexibility Act (RFA) analysis to determine the number of directly regulated entities that are small entities without applying the cooperative affiliations. NMFS considers a vessel owner's membership in a cooperative to be an affiliation; this shows a

misunderstanding of the nature of fishery cooperatives. Fishery cooperatives in Alaska are not large vertically or horizontally integrated businesses. Cooperative members are joined by simple rules to help remove the race for fish by coordinating selected fishing activities, but each catcher vessel (or collection of commonly owned catcher vessels) is a distinct business unit. The fact that cooperatives coordinate harvests in a manner that allows for more complete harvest of the quota should not be interpreted as creating a single business unit in the manner intended for defining a small business that is appropriate for protection by the RFA.

Response: When NMFS calculates the size of an entity to determine if it is a small entity, NMFS must include the annual receipts and the employees of affiliates. Affiliation is determined by the ability to control. Control may arise through ownership, management, or other relationships or interactions between the parties. When the ability to control exists, even if it is not exercised, affiliation exists. The Small Business Administration (SBA) has a specific set of rules that explain when another person, business, or entity is considered an affiliate for size purposes in its Small Business Size Regulations (13 CFR 121.103). Therefore, NMFS will not revise the RFA analysis to reestimate the number of small entities directly regulated by this action.

NMFS appropriately evaluates cooperative membership as an affiliation to determine if an entity is small. Cooperatives have the ability to control member vessels. Cooperatives are predicated on collective agreements among their members, to abide by the terms and practices set out for membership. That is, the entity instituted and constituted by creation of the cooperative is, by definition, a third party that controls or has the power to control its member concerns. The small entity standard to be met is "independently owned and operated."

Cooperative members may be independently owned and still fail to meet the standard due to not being independently operated. Cooperatives coordinate harvests, which is operational control of the input side of the business. The cooperative has enough operational control that members are not independently operated.

Cooperative membership does not automatically mean an entity is large (not small). A cooperative may be a small entity if the combined annual gross receipts of all cooperative members meets the size standard used by the SBA or, after July 1, 2016, NMFS' small business size standard for RFA compliance at 50 CFR 200.2(a). For more information on NMFS' small business size standard for RFA compliance, see 80 FR 81194 (December 29, 2015).

Comment 27: NMFS' aggregation of cooperative member's gross earnings eliminates a fishing business's access to the benefits of SBA review and runs against the intent of the RFA.

Response: The RFA is primarily concerned with assuring that Federal agency decision-makers contemplating regulatory action, seriously and systematically consider disproportionate economic impacts on small entities that may result therefrom. The purpose of the RFA was to establish as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, the RFA requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration. To comply with the RFA, agencies prepare an initial regulatory flexibility analysis (IRFA) and a final regulatory flexibility analysis (FRFA) following the required contents specified in the RFA. The complete RFA is available at https://www.sba.gov/advocacy/regulatory-flexibility-act.

NMFS has complied with the RFA for this action. NMFS has prepared an IRFA and a FRFA following the required contents specified in the RFA. The IRFA was prepared and summarized in the "Classification" section of the preamble to the proposed rule (81 FR 5681, February 3, 2016). The FRFA is in the "Classification" section of the preamble to this final rule.